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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 3376 of 2007
Date of decision: 18. 12. 2007

Anand Jeevan **...Petitioner**

Versus

San Shahai Bamania **...Respondent**

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. Ashok Kaushik, Advocate for the petitioner.

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RAJESH BINDAL, J.

The tenant is before this Court against concurrent findings of fact by both the Courts below whereby the ejectment petition filed by respondent/landlord for eviction of the petitioner on the ground of his personal necessity and for his unemployed son was accepted.

The claim set up in the petition was that respondent/landlord retired from Haryana Roadways and one of his son, namely, Dev Dutt was unemployed. He after passing the secondary examination had even obtained a diploma in Automobiles of two wheelers and three wheelers and in the shop in dispute, respondent/landlord wanted to settle his son in the business. Respondent/landlord proved on record the certificate of qualification of his son Dev Dutt, who wanted to start the business of automobiles in the demised premises being qualified Diploma holder of two wheelers and three wheelers. The plea set up by the respondent/landlord was controverted by petitioner/tenant stating that there are other shops in the market, which can be taken on rent by the landlord. However, such plea was rightly not accepted by the Courts below. The findings of the learned Rent Controller were upheld by the learned Appellate Authority finding the need of respondent/landlord to be bonafide and not mere desire. Before this Court, learned counsel for the petitioner

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sought to argue that respondent/landlord got another shop vacated in the year 1999 and the same was still lying vacant and he could very well set up his business there. The contention of learned counsel for the petitioner that landlord has other shop available with him also does not have any legs to stand as it is the sole judgment of the landlord as to in which premises he wants to set up his business. It has to be seen that intention to set up the business should not be a mere desire but the need should be bonafide. It is not in dispute that shop the eviction from which is sought by the landlord is situated at a place where other automobiles shops are situated and in view of that the same would certainly be best suited place to carry on the business of automobiles. Hon'ble the Supreme Court in **V.M.Mohan Vs. Prabha Rajan Dwarka and others** **(2006) 9 Supreme Court Cases 606** has opined on the issue as to what is the scope of interference in a revision filed under the Rent Act and held as under:-

> "From a bare perusal of the order of the High Court, it would appear that it has re-appreciated the evidence and come to the conclusion different from the trial Court as well as the appellate Court and held that the plaintiff failed to prove the ground of sub-letting. The High Court has nowhere stated that the finding of fact recorded by the original authority and confirmed by the Appellate Authority were perverse in any manner. It has not been even stated that the material evidence has not been considered by the two Courts of fact or the evidence adduced by the parties have been misread in any manner. This being the position, we are of the view that the High Court was not justified in interfering with the orders passed by the original authority and confirmed by the Appellate Authority. As the revision application was concluded by concurrent finding of fact recorded by the original authority as well as the Appellate Authority, no interference by the High Court was called for. We are, therefore, of the view that the High Court was not

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justified in allowing the revision application".

In **Vaneet Jain Vs. Jagjit Singh 2000 (1) R.C.R. (Rent) 507,** Hon'ble the Supreme Court has opined that in case of bonafide requirement where both the Courts below have recorded concurrent findings of fact, which are not found to be wholly unreasonable, the same does not call for any interference in revisional jurisdiction of the High Court under the Rent Act as these are not appellate power. It was held as under:-

> "A perusal of sub-section (6) of Section 15 of the Act shows that the power of High Court to revise an order is not an appellate power, but it is also true that is not akin to power exercisable under section 115 of Code of Civil Procedure. It is no doubt true that the High Court would be justified in interfering with the order passed by the appellate authority if legality or propriety of such order demands such interference. We are, therefore, of the view that it is not permissible for the High Court to reassess or re-appraise the evidence to arrive at a finding contrary to the finding of fact recorded by the Court below....."

If facts of the case are examination in view of the law laid down by Hon'ble the Supreme Court in V.M.Mohan's case (supra), I do not find any error of jurisdiction by the Court below in accepting the eviction petition filed by the respondent/landlord.

Accordingly, the revision petition is dismissed.

December 18, 2007 **(Rajesh Bindal)**
Pka **Judge**